

North Little Rock Board of Adjustment

Minutes March 26, 2009

The regular meeting of the North Little Rock Board of Adjustment was called to order by Chairman Carl Jackson at 1:32 P.M. in the Planning Office (Conference Room B).

Members Present

Debra Roberts
Tom Brown
Jimmy Phillips
Andy Hight
Carl Jackson, Chairman

Members Absent

None

Staff Present

Robert Voyles, Planning Director
Wade Dunlap, City Planner
B. J. Jones, Secretary

Others Present

Don Wood, NLR Code Enforcement
Holly Parker, 1354 Skyline Dr, NLR, AR
Lawrence Finn, 601 Orange St, NLR, AR

Approval of Minutes

Ms. Roberts made the motion to approve the minutes of the February 26, 2009 meeting as submitted.

Mr. Brown seconded the motion. There was no dissent.

Old Business

None

New Business

1. **BOA CASE #1423** – Mr. Donald Clayton Parker – 1354 Skyline Drive – Lot 17, and the W 1/2 Lot 16, Block 130 Park Hill Addition – To allow a front porch with a front yard setback variance of 15 ft., allowing the porch to be 10.5 ft. from the front property line.

Chairman Jackson stated the case number, the applicant's name and requested that the applicant come before the Board. He asked for any others interested in speaking in this matter. There was no one else.

Mr. Dunlap displayed photographs of the property and explained that no one was home when he took the photos; therefore he did not go inside the fence.

Mr. Brown asked to see the signatures of adjoining property owners.

Chairman Jackson asked Mrs. Parker to state a hardship.

Mrs. Parker explained that the back of her property is forty yards of dense woods leading down to Interstate 40 and included a power line. She explained that the rear yard is extremely loud with noise from the interstate traffic. She noted that the curb appeal of her home is lacking in comparison to neighboring properties, but that sound is the main issue, as they would like to enjoy an outdoor space that is less noisy.

Mr. Brown interjected that he lives on Magnolia and can hear the freeway from two miles away.

Mrs. Parker added that the noise is especially bad in the seasons with no foliage.

Ms. Roberts questioned whether a difference in the noise level could be noticeable between the front and rear yards.

Mrs. Parker replied that there was indeed a marked difference when they used the carport in the front.

Mr. Voyles noted that a noise meter could be used to measure if there is a difference between the front and rear yards.

Mrs. Parker agreed that they had considered that option.

Mr. Brown noted that they should have done that before this meeting.

Chairman Jackson voiced concern about how the applicant's request would affect the adjoining properties. He questioned how far from the street the request would place the porch.

Mr. Dunlap noted that the existing structure is twenty-four and one half feet from the property line.

Ms. Roberts asked if the building line should have been twenty-five feet.

Mrs. Parker noted that they had measured adjoining properties which had structures ranging from eleven feet to sixteen feet from the property line.

Ms. Roberts asked how they had known where the property line existed.

Mrs. Parker replied that they had estimated the line based on a standard of thirty feet from the center of the street.

Ms. Roberts noted that she would like to know the noise level before making a decision on this case.

Mr. Voyles offered to measure while the Board heard the next case.

Chairman Jackson asked for staff recommendations.

Mr. Dunlap noted that staff is concerned whether the stated hardship is valid, but added that the topography of the lot would make it extremely difficult to add on at the rear of the property.

Mr. Brown noted that they already have a deck in the rear.

Mr. Hight added that there is indeed a steep drop off in the rear.

Mr. Dunlap agreed that a stronger hardship would be the topography of the lot with such a steep drop. He added that reports from the neighbors support the request and that they note they look forward to such aesthetic improvements to the property. Mr. Dunlap also noted the precedent Mrs. Parker had pointed out, showing adjacent properties have structures already closer than what the applicant is requesting.

Mr. Brown noted that the closer structures did not include decks.

Mrs. Parker responded that some of them are covered porches.

Mr. Voyles pointed out that the applicant could build a front patio without a permit of any kind.

Mrs. Parker asked if that would include a pergola-type structure.

Mr. Voyles replied in the negative, noting that a pergola would require a permit, thus necessitating variance.

Mr. Hight formed a motion to approve the applicant's request as submitted.

Chairman Jackson noted that no one seconded the motion; therefore the motion dies due to lack of support.

Ms. Roberts suggested postponing the case until next month's meeting, allowing time to gauge the noise level at the property.

Mr. Brown added that he did not agree that noise level would constitute a valid hardship.

Ms. Roberts formed a motion to pass this case to next month's meeting to allow adequate time for noise level readings.

Mrs. Parker asked if she might request specific times for the noise levels to be checked.

Mr. Voyles asked what specific times she would like to request.

Mrs. Parker responded that rush hour would obviously be the noisiest time.

Mr. Hight seconded Ms. Roberts' motion and the motion carried with three affirmative votes. Mr. Brown and Mr. Phillips both voted against the motion.

Mr. Brown requested that staff take three different noise measurements on three different days of the week at three different times of day.

Mr. Phillips asked what a reasonable noise level would be.

Mr. Voyles responded that there is a noise ordinance.

Chairman Jackson interjected that he would like to see the ordinance on noise levels.

Mr. Dunlap added that the acceptable noise level is sixty-five decibels.

Mr. Hight asked who would determine what a significant difference would be.

2. **BOA CASE # 1424** – Mr. Lawrence Finn – 601 Orange Street – Lot 1 Block 9, Clendenin's Addition – To allow a front yard setback and rear yard setback of 6 ft., a variance of 19 ft. from the required 25 ft for a duplex in an R-3 zone.

Chairman Jackson stated the case number, the applicant's name and requested that the applicant come before the Board. He asked for any others interested in speaking in this matter. There was no one else. The Chairman noted that there had been previous action by this Board regarding this property.

Mr. Dunlap added that the case number was #1388 in October 2007 and that the Board had approved that applicant's request for waivers on side yard setbacks to allow a four foot, eight inch setback on one side and a three foot, ten inch setback on the street side.

Ms. Roberts asked how the current request compared with the request previously granted by this Board.

Mr. Dunlap explained that the current request changed the placement on the property, asking to consider the north and south as the front and rear. The applicant is requesting six foot setbacks all the way around, which is a nineteen foot variance either way.

Mr. Finn informed the Board that he is representing Argenta CDC and that the requested variance is smaller than the one previously granted by this Board. He added that the setback requirements would preclude the ability to utilize the R-3 zoning. He noted that allowing the requested variance would not place his building out of line with others on the street.

Mr. Voyles added that the structure with single car garages had been to Planning Commission and City Council. He reiterated that the request was smaller than the one previously approved by this Board.

Chairman Jackson asked if the property would be listed to sell after it was built.

Mr. Finn replied in the affirmative.

Ms. Roberts asked Mr. Dunlap to display photographs of the property again.

Mr. Voyles pointed out that the applicant's request would still place his project further from the street than the next door neighbor's structure.

Mr. Voyles asked if they had gotten a permit the last time the variance request was approved.

Mr. Finn replied in the negative. He explained that the project had been placed on hold.

Mr. Brown formed a motion to approve the applicant's request.

Ms. Roberts seconded the motion and it passed with a unanimous vote.

Administrative:

Mr. Brown asked what staff had found regarding Tolliver's.

Mr. Dunlap explained that he had researched the property and could not find any references to the location regarding limitations.

Mr. Brown noted that others had told him that a condition was placed on the property and business for the cars to be behind the building. He complained that the property looked like a salvage yard.

Chairman Jackson asked the status of the dumpster ordinance.

Mr. Voyles stated that there is a moratorium and he was directed not to do anything until after April 13th. He added that Cary Gaines may be trying to repeal the ordinance.

PUBLIC COMMENT/ADJOURNMENT:

Ms. Roberts made the motion to adjourn at 2:15 pm and there was no dissent.

PASSED: _____ RESPECTFULLY SUBMITTED:

CARL JACKSON, CHAIRMAN

ROBERT VOYLES, DIRECTOR